



STATE REPRESENTATIVE
GORDON HINTZ

WISCONSIN STATE ASSEMBLY

54th DISTRICT

November 29, 2011

Senator Van Wanggaard, Chair
Senate Committee on Labor, Public Safety,
and Urban Affairs
Room 319 South, State Capitol
Madison WI 53707-7882

Senator Wanggaard and members,

Thank you for holding a public hearing on Senate Bill 283, related to the unauthorized possession of a correctional employee's personal identifying information.

Correctional officers face risks everyday. We recognize that physical risks can have financial consequences by classifying corrections officers as protective service for purposes of the Wisconsin Retirement System. However, our system is lacking when it comes to protecting corrections officers from the risk posed by financial and identity crimes.

Imagine you are a correctional officer and you discover an inmate obtained your social security number, address and your mother's maiden name. When the discovery is made, it cannot be demonstrated that the inmate used the information, attempted to use it or even has the intent to use it - therefore it cannot be proven a crime has been committed and it is not possible for you to take the necessary step of obtaining a credit freeze free of charge. As a corrections officer it is up to you to take the time and spend the money to protect yourself.

Under current Wisconsin law, a corrections officer would have to pay \$10 to each of the three credit reporting agencies to put a freeze into effect. Wisconsin law also allows a charge of \$10 for removing the fee or for temporarily lifting of the fee. When considering the cost of the initial freeze and the \$10 fee paid to each agency for having the freeze temporarily lifted every time credit is sought - the cost to prison guards can quickly add up.

This bill does two things:

First, it makes it a Class H felony for inmates and residents of mental health facilities to possess the personal identifying information of corrections officers. It is currently a Class H felony to use, attempt to use, or intend to use this information.

Secondly, by making possession a Class H felony in these limited circumstances, the bill then enables corrections officers to secure the necessary credit freezes and have freezes lifted when necessary - without having to pay \$10 to each of the credit reporting agencies.

Corrections officers know their jobs come with inherent risks. We cannot eliminate the risk, but when gaps in the law effectively enable inmates to gather correction officer information with impunity we need to take necessary steps to help these officers manage the risk. Senate Bill 283 is a bipartisan bill that closes a gap in law and will help to reduce one of the risks corrections officers face.

Again, thank you for holding a public hearing on the bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gordon Hintz".

Gordon Hintz
State Representative – 54th Assembly District

2011 Senate Bill 283
Testimony before the Senate Committee
on Labor, Public Safety, and Urban Affairs
November 29, 2011

Introduction:

Good Morning Chairman Wanggaard and members of the Senate Committee on Labor, Public Safety, and Urban Affairs. My name is Stacey Rolston and I am the Administrator for the Division of Management Services within the Department of Corrections. One of my significant areas of responsibility includes oversight of the Department's privacy policies. I appreciate the opportunity to testify for informational purposes this morning regarding Senate Bill 283.

Safety and security in our institutions and within our communities are top priorities for the Department. Our goal is for offenders to successfully reenter society and for our staff to go home safely to their families at the end of the day. Correctional employees make numerous sacrifices to ensure Wisconsin is a safer place to live and we believe this bill provides additional and necessary protection for our staff.

In April of 2009, inmates at Prairie du Chien Correctional Institution were found in possession of Social Security Numbers of 78 current and former employees. Around that same time, an inmate at Green Bay Correctional institution (GBCI) who was formerly at the Wisconsin Resource Center was in possession of Social Security Numbers of staff (and family members) within GBCI's administration, including the Warden. Most recently, an inmate housed in Segregation at Columbia Correctional Institution (CCI) was heard yelling out the Social Security Number of a Social Worker. The inmate also knew the Social Worker's maiden name which she had not used since she worked at Ethan Allen School for Boys where the inmate had once been in institutional care.

During the 2009 investigation into the incident at PDCI, we worked in concert with the Union, local law enforcement, DATCP, and OSER. Unfortunately, the result of that investigation uncovered that current law does not prevent an inmate from being in possession of this information and therefore, there was no legal remedy or protection for the staff impacted. The Department is providing the affected staff with 7 years of debt protection services; however, since these infractions were not

“identity theft” under the current statutory language this service was not available free of charge.

As a result of the 2009 data breach at PDCI, the Department has taken various steps to improve the security, retention, and destruction of documents that include both staff and inmate personal identifying information. We conducted an agency wide survey to determine the extent to which we collected personal identifying information and the consistency in which we protected that information. Historically, the Department had over 100 forms that required an individual to provide his/her Social Security Number. Today, we have only 5 forms that require a Social Security Number. We have implemented policies and improved practices in an effort to reduce the possibility of this information being compromised. However, as the most recent incident at CCI indicates, these steps are not enough to provide our staff with complete peace of mind that they will be protected, even if their information was not. The threat of identity theft was not as imminent twenty years ago as it is in today’s technological age and we need to ensure that our policies and laws keep pace with these advancements.

Current Law:

Current law prohibits the unauthorized *use* of another person’s personal identifying information, but does not preclude inmates or offenders from being in possession of a correctional employee’s information. Current law also prohibits the intentional use of this information to obtain something of value, to avoid civil or criminal process or penalty, or to harm the reputation or property of the person. Currently, a person who is victim of “identity theft” may obtain a security freeze on his or her credit reports free of charge. Since the inmates had not yet *used* the information, they could not be prosecuted and our staff had no protection under the law.

Bill Requirements:

This bill prohibits an inmate from *possessing* a correctional employee’s personal identifying information. An inmate would be guilty of a Class H felony if they are found in violation. In addition, this bill provides correctional employees the protection of obtaining a security freeze on their credit reports free of charge.

The bill, as drafted, includes definitions for “correctional employee” and “prisoner” which only includes staff and inmates within our *adult* correctional institutions. The Department respectfully requests consideration that these

definitions be expanded to include staff who work with offenders in the community (both adult and juvenile), adult offenders on community supervision, and youth who are in our juvenile correctional institutions and on community supervision. Our staff in the field are just as vulnerable to this type of crime as staff in the institution. In addition, as we understand the bill, if an inmate were to have gained possession of a staff person's personal indentifying information while incarcerated, but it is not discovered until he/she is released, we would need to prove that the information was obtained while the person was incarcerated for it to be a violation.

I thank you for the opportunity to address this committee on this bill and welcome any questions you might have at this time.